

CERTIFICATE OF SERVICE

I, Rebecca Hoyt Fischer, certify that I am, and at all times during the service of process was, not less than 18 years of age and not a party to the matter concerning which service of process was made. I further certify that the service of this summons and a copy of the complaint was made February 6, 2008 by:

\_x\_ Mail Service: Regular, first class United States mail, postage fully pre-paid, addressed to:

RadioShack Corporation - Credit Services  
attn: Judy Wong  
300 RadioShack Circle  
Mail Stop 5018  
P.O. Box 961090  
Fort Worth, TX 76161-5018.

Corporate Services Company - Registered Agent  
251 E. Ohio Street, Suite 500  
Indianapolis, IN 46204

\_\_\_ Personal Service: By leaving the process with defendant or with an office or agent of defendant at:

\_\_\_ Residence Service: By leaving the process with the following adult at:

\_\_\_ Certified Mail Service of an Insured Depository Institution: By sending the process by certified mail addressed to the following officer of the defendant at:

\_\_\_ Publication: The defendant was served as follows: [ Describe briefly]

\_\_\_ State Law: The defendant was served pursuant to the laws of the State of \_\_\_\_\_, as follows: [Describe briefly]

Under penalty of perjury, I declare that the foregoing is true and correct.

February 6, 2008

/s/ Rebecca H. Fischer  
LADERER & FISCHER, P.C.  
112 West Jefferson Blvd., Suite 310  
South Bend, Indiana 46601  
Telephone (574) 284-2354  
Facsimile (574) 284-2356

#10537-72

**U.S. Bankruptcy Court  
Northern District of Indiana**

In re:

AUBURN FOUNDRY, INC.

Bankruptcy Case No. **04-10427-reg**

Debtor

REBECCA HOYT FISCHER

Adversary Proceeding No. **08-01025-reg**

Plaintiff

v.  
RADIOSHACK CORPORATION

Defendant

**SUMMONS IN AN ADVERSARY PROCEEDING**

**YOU ARE SUMMONED** and required to submit a motion or answer to complaint which is attached to this summon to the C Bankruptcy Court within 30 days from the date of issuance of this summons, except that the United States and its offices and submit a motion or answer to the complaint within 35 days of issuance.

**Address of Clerk**

**Clerk, U.S. Bankruptcy Court  
Northern District of Indiana  
1300 South Harrison Street  
Fort Wayne, Indiana, 46802**

At the same time, you must also serve a copy of the motion or answer upon the plaintiff's attorney.

**Name and Address of Plaintiff's Attorney**

**Rebecca Hoyt Fischer  
112 West Jefferson Boulevard  
Suite 310  
South Bend, IN 46601-1438**

If you make a motion, your time to answer is governed by Federal Rule of Bankruptcy Procedure 7012.

**IF YOU FAIL TO RESPOND TO THIS SUMMONS, YOUR FAILURE WILL BE DEEMED TO BE YOUR CONSENT TO ENTRY OF A JUDGEMENT BY THE BANKRUPTCY COURT AND JUDGMENT BY DEFAULT MAY BE TAKEN AGAINST YOU FOR THE RELIEF DEMANDED IN THE COMPLAINT.**



Christopher M. DeToro, Clerk Of Court

CSD 3007

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF INDIANA  
FORT WAYNE DIVISION**

<b>IN RE:</b>	)	<b>Case No. 04-10427</b>
<b>AUBURN FOUNDRY, INC.,</b>	)	
	)	
<b>Debtor.</b>	)	<b>Chapter 7 Bankruptcy</b>
<hr style="width: 30%; margin-left: 0;"/>		
<b>REBECCA HOYT FISCHER,</b>	)	
<b>Chapter 7 Trustee of</b>	)	
<b>Auburn Foundry, Inc.</b>	)	
<b>Plaintiff,</b>	)	
<b>v.</b>	)	<b>Adv. Proc. No. 08 - _____</b>
	)	
<b>RADIO SHACK CREDIT</b>	)	
<b>SERVICES,</b>	)	
	)	
<b>Defendant.</b>	)	

**COMPLAINT TO SUBORDINATE CLAIM NO. 177  
TO CLAIMS OF GENERAL UNSECURED CREDITORS**

COMES NOW Rebecca Hoyt Fischer, Chapter 7 Trustee, and files this Complaint against Radioshack Credit Services ("Creditor") and in support thereof states as follows:

1. The undersigned is a duly authorized and acting Chapter 7 Trustee (the "Trustee") of Auburn Foundry, Inc.
2. Defendant is a creditor in the above-captioned bankruptcy proceeding which, pursuant to its proof of claim indicates its address is RadioShack Corporation - Credit Services, attn: Judy Wong, 300 RadioShack Circle Mail Stop 5018, P.O. Box 961090, Fort Worth, TX 76161-5018.
3. The amount of the claim is \$58.28.
4. Creditor holds a lien against property, which secures the indebtedness, which is the basis of the claim filed in the above-captioned bankruptcy proceeding, which property has not been administered by the Trustee.
5. The value of such lien interest may substantially equal or exceed the amount of the Creditor's claim filed in the above-captioned bankruptcy proceeding. The Trustee asserts that it would

be inequitable to allow Creditor to participate in the general distribution to unsecured creditors in the above-captioned bankruptcy estate when Creditor may receive full payment of its claim from the liquidation of its collateral.

6. In order to prevent injustice or unfairness to the other unsecured creditors, Trustee believes that the appropriate remedy under 11 U.S.C. § 510(c), 11 U.S.C. § 508 and under Bostonian vs. Shapiro, 144 F2d. 791, 800 (8<sup>th</sup> Cir. 1944) is to equitably subordinate the claim of Creditor herein to the claims of other general unsecured creditors.

WHEREFORE, Trustee asks the Court to enter an order equitably subordinating the claim of Creditor herein to the claims of other unsecured creditors in the above-captioned bankruptcy estate and for such other relief as the Court deems just and proper under the circumstances.

Dated: February 6, 2008

Respectfully submitted,

Rebecca Hoyt Fischer, Chapter 7 Trustee of  
Auburn Foundry, Inc.

By: /s/ Rebecca H. Fischer #10537-72

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